

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION  
SPECIAL ORDER BY CONSENT  
ISSUED TO  
E. I. DU PONT DE NEMOURS AND COMPANY  
TEJIN U.S. HOLDINGS INCORPORATED  
VPDES Permit No. VA0003077**

**SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and Du Pont, for the purpose of resolving certain violations of environmental law and regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Special Order.

6. “DuPont Teijin Films” means DuPont Teijin Films US Limited Partnership, Incorporated, certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. “Facility” means the DuPont Teijin Films Plant located in Chesterfield County, Virginia.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “Permit” means VPDES permit No. VA0003077, which became effective December 6, 1999, and expires December 6, 2004.
10. “O&M” means operations and maintenance.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. DuPont Teijin Films owns and operates a polyester resin and film production facility in Chesterfield County, Virginia. This facility is the subject of VPDES Permit No. VA0003077, which allows DuPont Teijin Films to discharge treated wastewater into the James River in strict compliance with terms, limitations and requirements outlined in the permit.
2. On June 25, 2001, an upset occurred at the facility that was caused by a chemical change to DuPont Teijin Films untreated influent. Research and development teams associated with manufacturing divisions began several trials on site in an attempt to develop a number of new film coatings for the market. Some trials were aborted resulting in these coatings being disposed at the on site treatment plant. Although the treatment plants design organic load was not exceeded, the treatment of the coating trials had a toxic effect on the sludge biology of the treatment process. It took several weeks for the treatment process to recover.
3. On September 17, 2001, DuPont Teijin Films found a permit violation of total residual chlorine at outfall 001. Facility operators were monitoring for free chlorine in the cooling towers and assuming the total residual chlorine at the outfall was in compliance because normally, based on past analysis, free and total chlorine level ratios are about one to one. On September 17, 2001, this correlation did not hold true and the permit limit was exceeded.
4. In late September 2001 and continuing into October an upset occurred at the facility’s clarification process. A change in wastewater characteristics resulted in a reversal of electrical charge that rendered the coagulant and flocculent polymers ineffective. DuPont Teijin Films conducted a number of bench scale tests with the help of a consultant to improve solids separation. In addition, DuPont Teijin Films changed the type and increased the frequency of the process control testing to aid in solids settling troubleshooting.

5. In October 2001 DuPont Teijin Films reported a violation of the total phosphorous limit at outfall 001. Treatment plant operators routinely add phosphorous to the biological treatment process to prevent nutrient deficiency. Since the violation the operators have discontinued the addition of phosphorous and are re-evaluating the benefit of enhanced nutrient feed system.
6. On January 30, 2002, the Department issued a Notice of Violation (NOV) to DuPont Teijin Films for effluent violations of biochemical oxygen demand (BOD), carbonaceous biochemical oxygen demand (CBOD), total residual chlorine, and total phosphorous.
7. The Department met with DuPont Teijin Films on February 19, 2002, to discuss the measures taken to prevent the recurrence of upsets in the biological treatment process. The Department and DuPont Teijin Films discussed the upset events, the recent actions taken, and other actions planned for the future. In addition, DuPont Teijin Films was made aware of the Department's intent to recommend to the State Water Control Board to issue this Order.
8. On March 25, 2002, DuPont Teijin Films installed individual automatic flow controls on each aeration basin, completing in part, the corrective action discussed on February 12, 2002.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders DuPont Teijin Films, and DuPont Teijin Films agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders DuPont Teijin Films, and DuPont Teijin Films voluntarily agrees, to pay a civil charge of \$4,200 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. The payment shall note that it is being made pursuant to this order and shall note the Federal Identification Number for DuPont Teijin Films. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of DuPont Teijin Films, for good cause shown by DuPont Teijin Films, or on its own motion after notice to DuPont Teijin Films and opportunity to be heard by DuPont Teijin Films.

2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For purposes of this Order only, DuPont Teijin Films admits the jurisdictional allegations in the Order. However, by entering into this Consent Order, DuPont Teijin Films does not admit any liability to the Board arising out of the transactions or occurrences alleged by the Board, nor does it admit to any of the Board's findings of fact and conclusions of law. Nothing in the allegations, the proposed penalties, this Consent Order, or the signing, execution, or implementation of this Consent Order constitutes an admission by DuPont Teijin Films or evidence of, or shall be treated as an admission or evidence of, any allegation or of any violation of the statute and regulations referred to herein, in any litigation or forum whatsoever.
4. DuPont Teijin Films consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. DuPont Teijin Films declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by DuPont Teijin Films to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. DuPont Teijin Films shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. DuPont Teijin Films shall show that such circumstances were beyond its control

and not due to a lack of good faith or diligence on its part. DuPont Teijin Films shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 48 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and DuPont Teijin Films. Notwithstanding the foregoing, DuPont Teijin Films agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. DuPont Teijin Films petitions the Regional director to terminate the Order after it has completed all the requirements of the Order and the Director acts to terminate the Order. The Regional Director's determination that DuPont Teijin Films has satisfied all the requirements of the Order is a "case decision" within the meaning of the Administrative Process Act.
  - b. The Director or the Board may terminate this Order in his or its sole discretion upon 30 days written notice to DuPont Teijin Films.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve DuPont Teijin Films from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, DuPont Teijin Films voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

DuPont Teijin Films voluntarily agrees to the issuance of this Order.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Commonwealth of Virginia

City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2002, by \_\_\_\_\_, who is  
(name)

\_\_\_\_\_ of DuPont Teijin Films, on behalf of the Corporation.  
(title)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

## APPENDIX A

DuPont Teijin Films shall:

1. **On or before July 30, 2002**, On or before July 30, 2002, develop and submit to the Department a coating evaluation program for the testing of chemical compounds and recipes used in the production and development of film coatings. The program shall be used to determine what effects the various coating chemicals and formulas have on the biological treatment process and to develop treatment procedures for minimizing detrimental impacts to the microbial fauna in the treatment plant.
2. **On or before July 30, 2002**, submit to the Department a report evaluating the benefit of upgrading the nutrient feed system. If the evaluation concludes that an upgrade is required, the report shall include an approvable conceptual engineering report (CER) with a schedule.
3. **On or before August 1, 2002**, submit to the Department a Corrective Action Plan (CAP) to address the chlorine violations due to cooling tower blowdowns. The CAP shall include an implementation schedule suitable for Department approval.
4. **On or before August 15, 2002**, develop and submit to the Department a written plan formalizing training and communication for wastewater system operations and the disposal of abnormal wastewaters.
5. **On or before October 1, 2002**, submit to the Department a revised operation and maintenance (O&M) manual for the wastewater treatment plant.

**All schedules submitted as part of this Order, once approved by the Department, shall be enforceable as if contained within.**

**Pursuant to this Order** communications regarding this Order, and its requirements shall be addressed as follows:

Frank Lupini  
Department of Environmental Quality  
Piedmont Regional Office  
4949-A Cox Road  
Glen Allen, Virginia 23060

DuPont Teijin Films shall confirm, in writing, completion of the Order requirements to the above address **within five (5) days of completion**.